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concl.
19. (New) The cat toy of claim 7 wherein the removable cover piece has a cylindrical cup shape for engagement to either the first or second end of the flexible elongated tube.
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REMARKS

This amendment is in response to the first Office Action dated December 17, 2001. Claims 1-12 were examined in the Office Action. After cancellation of claims 2 - 4 without prejudice, and addition of claims 16-19, claims 1, 5-12, and 16-19 are now pending. Applicants respectfully request reconsideration and withdrawal of the rejections set forth in the Office Action in view of the above amendments and the reasons set forth below.

A. Objection to Claims 8 and 9 Addressed

Claims 8 and 9 were objected to for the problematic use of the words "material" (claim 8) and "form" (claim 9). Applicant has replaced the word "material" with "film" and the word "form" with "from." Removal of the objections to claims 8 and 9 are therefore respectfully requested.

B. Anticipation Rejection of Claim 1 Addressed

The Examiner rejected claim 1 under 35 U.S.C. § 102(b) as anticipated by Curley et al (U.S. Patent No. 5,564,454). The rejection is respectfully traversed in light of the above amendments and remarks that follow.

The Examiner contends that Curley's collapsible toy anticipates applicants claim 1. Applicant's amended claim 1 is directed to a cat toy having "a flexible elongated tube capable of being contorted into a multitude of curved positions, having a first end, a second end, and a middle portion, the elongated tube made from a crinkly plastic film molded to a tubular shaped coiled wire scaffolding, the coiled wire scaffolding having a plurality of loops, the middle portion of the elongated tube having an interior surface and exterior surface, and a layer of fabric attached to both the interior surface of the middle portion and exterior surface of the middle portion"

Curley shows a tunnel structure having a collapsible cover means (2) and various support members (Fig. 1). The support members are combined to form a one loop elastic support integrated into the cover means for extending the cover means into a tunnel

col. 5, 58-65 structure. Curley does not teach or describe a flexible elongated tube capable of being contorted into a multitude of curved positions, or a flexible elongated tube having a coiled wire scaffolding with a plurality of loops. Further, Curley does not teach a crinkly plastic film molded over the coiled wire scaffolding. Since Curley neither teaches nor suggests these features of claim 1, claim 1 patentably distinguishes over Curley. The allowance of claim 1 is therefore respectfully requested.

Applicant notes that neither Johnson (U.S. Patent No. 5,921,204), Westphal (U.S. Patent No. 5,620,396), Zoroufy (U.S. Patent No. 5,351,646), or Zheng (U.S. Patent No. 5,618,246) suggest or teach the elements of claim 1. As such, Applicant believes that claim 1 is patentably distinct over these references taken alone or in combination.

C. Obviousness Rejection of Claims 2-4, 6, 8, 10, and 11 Addressed

The Examiner rejected claims 2-4, 6, 8, 10 and 11 under 35 U.S.C. § 103 as obvious over Curley et al (U.S. Patent No. 5,564,454). Claims 2-4 have been cancelled without prejudice, the rejection with respect to these claims is deemed moot.

The rejection is respectfully traversed with respect to claims 6, 8, 10 and 11. Since claims 6, 8, 10 and 11 depend directly or indirectly from and further limit claim 1, it is believed that for at least the reasons that claim 1 is allowable, claims 6, 8, 10 and 11 are allowable. The allowance of claims 6, 8, 10 and 11 are respectfully requested.

D. Obviousness Rejection of Claim 5, 7, 9 and 12 Addressed

The Examiner rejected claim 5 under 35 U.S.C. § 103 as obvious over Curley et al (U.S. Patent No. 5,564,454) in view of Johnson (U.S. Patent No. 5,921,204). The Examiner rejected claim 7 under 35 U.S.C. § 103 as obvious over Curley et al (U.S. Patent No. 5,564,454) in view of Westphal (U.S. Patent No. 5,620,396). The Examiner rejected claim 9 under 35 U.S.C. § 103 as obvious over Curley et al (U.S. Patent No. 5,564,454) in view of Zoroufy (U.S. Patent No. 5,351,646). The Examiner rejected claim 12 under 35 U.S.C. § 103 as obvious over Curley et al (U.S. Patent No. 5,564,454) in view of Zheng (U.S. Patent No. 5,618,246). The rejections are respectfully traversed.

Since claims 5, 7, 9 and 12 all depend from and further limit claim 1, it is believed that for at least the same reasons that that claim 1 is allowable, claims 5, 7, 9 and 12 are allowable. The allowance of claims 5, 7, 9, and 12 is respectfully requested.

E. New Claims 16 - 19

Support for new claims 16-19 is found throughout the specification, but in particular on page 5, lines 1-5 (claim 16), page 4, lines 31-33 (claim 17), page 4, lines 22-30 (claim 18) and page 5 lines 32-34 through page 6, lines 1-5 (claim 19).

E. Defective Oath/Declaration Addressed

This rejection is respectfully traversed. The oath/declaration is believed to be in compliance with 37 C.F.R. 1.67(a), as it was filed with the application. Applicant respectfully request removal of this rejection.

F. Conclusion

Claims 1, 5-12 and 16-19 of this application remain pending. All pending claims are believed to be allowable. This amendment is believed to be responsive to all points in the Office Action. A separate sheet showing the claim amendments is enclosed. In light of the foregoing claim amendments and remarks, it is believed that the application is in condition for allowance and prompt allowance is respectfully solicited.


Should the Examiner have any remaining questions, she is encouraged to contact the undersigned attorney at the telephone number below to expeditiously resolve such concerns.

Please charge any additional fees or credit any overpayment to Deposit Account No. 13-2725.

Date: March 18, 2002

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S/N 09/770,520

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Serial No.:	09/770,520	Group Art Unit:	3643
Filed:	January 25, 2001	Docket No.:	40186.0001US01
Title:	CAT TOY		

CLAIMS AMENDMENTS - MARKUP

1. (Amended) A cat toy comprising:
a flexible elongated tube capable of being contorted into a multitude of curved positions, having a first end, a second end, and a middle portion, [and] the elongated tube made from a crinkly plastic film molded to a tubular shaped coiled wire scaffolding, the coiled wire scaffolding having a plurality of loops, the middle portion of the elongated tube having an interior surface and exterior surface, and a layer of fabric attached to both the interior surface of the middle portion and exterior surface of the middle portion, wherein movement of a cat or other pet within the elongated tube causes the emission of noise from the crinkly plastic film.
8. (Amended) The cat toy of claim 1 wherein the crinkly plastic [material] film is polyethylene.
9. (Amended) The cat toy of claim 1 wherein the catnip is suspended [form] from an interior surface of the middle portion.

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